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In re Application of  
T. Wurtz, et al.  
Application No.: 09/662,718  
Filed: September 15, 2000  
Attorney Docket No: SFN301RI

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**MAR 23 2009**

**OFFICE OF PETITIONS**

ON PETITION

This is in response to the petition under 37 CFR 1.137(b) filed February 9, 2009, and in duplicate on February 20, 2009.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

This application became abandoned for failure to file a timely appeal brief after the filing of a Notice of Appeal on August 8, 2007. The application became abandoned on October 9, 2007. A Notice of Abandonment was mailed on February 16, 2008.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition does not satisfy the requirements of item (1) above.

As to item (1) above, Examiner Robert Canfield has determined that neither the amendment filed February 9, 2009, or February 20, 2009, place the application in condition for allowance. The renewed petition must be accompanied by a proper response to the final Office action, which may include an amendment that places the application in condition for allowance, a Request for Continued Examination under 37 CFR 1.114, or a Notice of Appeal. Questions regarding the determination of the sufficiency of the amendments should be directed to Examiner Canfield.

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petitions  
Commissioner for Patents  
United States Patent and Trademark Office  
Box 1450  
Alexandria, VA 22313-1450

By facsimile:

(571) 273-8300  
Attn: Office of Petitions

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.



Kenya A. McLaughlin  
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